

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

MICKEY A. MADDUX, #A0723747,)	Civ. No. 18-00258 DKW-RLP
)	
Petitioner,)	ORDER DENYING PETITIONER'S
)	MOTIONS FOR PRELIMINARY
vs.)	INJUNCTION AND SUMMARY
)	JUDGMENT
TODD THOMAS,)	
)	
Respondent.)	
_____)	

On August 22, 2018, the Court directed the Hawaii Office of the Attorney General to determine which County of Hawaii's Prosecuting Attorney's Office should respond to the Court's August 22, 2018 Order to Show Cause and Answer (OSC) the Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody (Petition). *See* ECF No. 3. Due to an apparent miscommunication between the Office of the Attorney General and the Maui County Prosecuting Attorney's Office, the Maui Prosecuting Attorney did not receive notice of the OSC until on or about October 29, 2018, when Petitioner filed a Request for Preliminary Injunction (Request), and a Motion for Summary Judgment (Motion). *See* ECF Nos. 4, 5. The Request and Motion were both

premised on Respondent's failure to respond to the OSC or oppose the Petition, although Petitioner also argued the merits of the Petition.

When the Court received Petitioner's Request and Motion, and it became clear that the Maui Prosecuting Attorney had not received the OSC, it issued a Second Order to Show Cause and Answer (SOSC) with clear directions that it should be served on and answered by the Maui Prosecuting Attorney. *See* ECF No. 6. The Court directed Respondent to file a Reply, Answer, or other dispositive motion to the Petition, and an Opposition to Petitioner's Request and Motion.

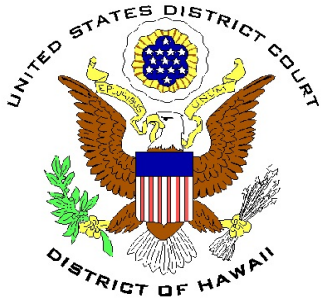
Respondent filed a Motion to Dismiss [the Petition] for Failure to Exhaust State Remedies, and a Memorandum in Opposition to the Request and Motion on December 11, 2018. *See* ECF Nos. 9, 12.

The Court has carefully considered Petitioner's Request and Motion and Respondent's Opposition, and reviewed the entire record herein. Respondent has timely filed a detailed response to the Petition, and there is no basis for ignoring that response and the evidence presented therein based on a procedural misunderstanding that was easily and immediately corrected without apparent prejudice to any party. Petitioner's Request for Preliminary Injunction and

Motion for Summary Judgment, based on Respondent's failure to timely answer the original Order to Show Cause and Answer, are DENIED as MOOT.

IT IS SO ORDERED.

DATED: January 9, 2019 at Honolulu, Hawaii.



/s/ Derrick K. Watson
Derrick K. Watson
United States District Judge

***Mickey A. Maddox v. Todd Thomas*; Civil No. 18-00258 DKW-RLP; ORDER
DENYING PETITIONER'S MOTIONS FOR PRELIMINARY
INJUNCTION AND SUMMARY JUDGMENT**

Maddox v. Thomas, No. 1:18-cv-00258 DKW-RLP; Ords 2019